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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/161,816	09/28/1998	MALCOM B. STRANDBERG	DAVOX-142XX	8075

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MANCHESTER, NH 03104

EXAMINER

AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 05/19/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/161,816

Applicant(s)

STRANDBERG, MALCOM B.

Examiner

Hector A. Agdeppa

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 2/19/03. Claims 1 - 28 are now pending in the present application. **This action is made final.**

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3 – 11, 21 – 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton).

Bateman et al. teaches a method and system for coordinating communications via customer contact channel changing system, using a call center for setting up the call between the customer and an available help agent from a pool of agents, wherein a call back is provided from a request over a data path 6 from a data terminal 4, the call back data including a telephone number to be dialed. (Col. 4, line 51 – Col. 5, line 12 and Col. 6, lines 14 – 19) Furthermore, Bateman et al. teaches a server 28 for receiving requests and forwarding call back data to a remotely located outbound dialer system 32 having a HOTLIST wherefrom telephone numbers to be dialed may be retrieved and processed. (Col. 5, lines 35 – 67 and Col. 6, lines 41 – 50)

Bateman et al. also teaches the aforementioned data path being one or a combination of a direct data path, a LAN or WAN, and/or the PSTN. (Fig. 1)

Bateman et al. teaches that the call back request includes customer indicia, a time to call back, and a message, wherein the message may be comprised of voice and/or text and/or DTMF tones. (Col. 6, line 1 – Col. 7, line 13) Note that Bateman et al. teaches the use an IVR (interactive voice response) system and it is inherent that in an IVR system a customer may respond by pressing buttons on a conventional telephone i.e. DTMF tones or even when a customer may respond via voice, the voice is converted into DTMF tones for processing by the IVR system.

Bateman et al. further teaches a MMM 50 acting as a call scheduler responsive to the aforementioned HOTLIST for ordering and scheduling the telephone numbers to be dialed at approximately the time designated or scheduled to be called back or even immediately. (Col. 7, lines 28 – 61) Furthermore, depending on the data connection type the customer has, an immediate connection may be made with an available agent over a network with the use of ISDN or SVD, so as to allow for the simultaneous exchange of voice and data and waiting for, for example, a customer to disconnect from a dial-up ISP to allow access to a conventional phone line. (Col. 10, lines 25 – 31)

Bateman et al. also teaches the use of CGI programs. (Col. 5, lines 56 – 60 and Col. 7, lines 28 – 42)

Lastly, Bateman et al. also teaches a "substantially immediate" callback in another embodiment wherein a customer may desire for example, "Live Help" instead of a scheduled callback at a later time. (Col. 6, lines 14 – 29)

What Bateman et al. does not teach is the callback being repetitive when encountering a busy signal.

However, Sutton teaches an extremely old and well-known feature of telephony systems which is the continuous redialing of a telephone number in the event that a busy signal is encountered.

Because continuous redialing is such an old and well-known feature, it would simply be an obvious design choice or preferred mode of operation that one skilled in the art would employ in the invention of Bateman et al. Even a method wherein a number is continuously redialed after every busy signal is obvious though not employed often because such would merely be a waste of resources in the majority of cases, if not all of them. If for example, a person does not have voice mail or an answering machine, continuously redialing that number would mean that the system would be attempting a call possibly for hours and hours until someone at the called number picks up. Furthermore, the most likely reason continuous redialing is found in older systems and not as often in newer is simply because continuous redialing is generally regarded as a waste of resources and time. Many more methods of call back have been developed wherein a callback will be made only when the line to be called is monitored and is determined not to be busy for example. However, this does not affect the motivation for why such a feature would be implemented in a newer or more modern system, as again, it is simply a well-known method of dialing.

Regarding claim 21, Bateman et al. teaches the use of Internet services with multiple media formats and it is well known to use JAVA over the Internet. Therefore it would be an obvious design choice by one skilled in the art whether to use CGI or JAVA so as to allow for the transmission of the call back data over the Internet.

3. Claims 12 – 20, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton) and further in view of US Pat 5,214,688 (Szlam et al.)

Bateman et al. and Sutton have been discussed above. What Bateman et al. and Sutton do not teach is a predictive dialer, wherein the predictive dialer has a call pacer. Furthermore, Bateman et al. does not teach appending a non-answered call to a future call campaign.

However, Szlam et al. teaches a method and apparatus for dynamic and interdependent processing of inbound calls and outbound calls, wherein a pacing, predictive dialer is used (Fig. 4 and Col. 11, line 50 – Col. 12, line 7) as well as assigning a call to a next campaign (Col. 9, lines 5 – 8)

It would have been obvious to include the aforementioned features of Szlam et al. in the combination of Bateman et al. and Sutton so as to allow for the dynamic adjustment of call completion in response to various call scenarios and situations as noted in Columns 2 and 3 of Szlam et al.

#### ***Response to Arguments***

4. Applicant's arguments filed 2/19/03 have been fully considered but they are not persuasive.

As to applicant's arguments regarding what none of the cited references teach, applicant has merely stated such but has not given any definitive proof either in the

specification or claims, beyond merely quoting the claims, or in the references used by examiner. Merely asserting that the references do not read on the present invention is insufficient to sway the examiner from maintaining his position.

Furthermore, in Bateman, a customer has the option of choosing "LIVE HELP." The request for that help is sent via the internet from the customer's own computer, i.e., over a data path from a data terminal located at a first location. The form used in requesting live help asks the customer for a phone number to be called at, i.e., the request includes call back data.

Applicant's attempt at further distinguishing the present invention from the references by asserting that redialing a number "each time" a busy signal is heard is merely a design choice and obvious. As discussed above in the rejection, whether there is a time limit or whether a call is attempted each time a busy signal is received, is merely a design choice or preference. There is nothing patentable or un-obvious about a call back system that merely keeps trying to call a number back repeatedly. This would entail simply negating the time limit or call back number limit of Sutton. That is all. Such would be more than obvious to one of ordinary skill in the art.

Again, as to applicant's arguments regarding why Sutton cannot be combined with Bateman et al., continuous redialing is merely a design choice or preference of operation. Reasons were given in the previous office action why continuous redial would not be desirable in Bateman et al., but nonetheless could be implemented. Even though a person specifies a time to be called back in the system of Bateman et al. Examiner is certain that applicant does not assume that every time a person gives a

time to be called, that person will ALWAYS be there. There are many situations wherein even if a person specifies a time, there might be reason to keep trying that person if they do not answer.

As to applicant's arguments regarding Sutton, Sutton was used ONLY for the continuous redial method and nothing else. Whether Sutton involves a single caller and initiates calls on their own initiative is irrelevant. Sutton describes and teaches a continuous redial method that would be more than obvious for one of ordinary skill in the art to implement/integrate in the system of Bateman et al. without having to take each and every limitation and feature of Sutton along as well.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



Application/Control Number: 09/161,816  
Art Unit: 2642

Page 8


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

H.A.A.  
May 15, 2003

  
**AHMAD F. MATAR**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2700**